

Message Text

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ACTION EA-12

INFO OCT-01 IO-13 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01
CEQ-01 CG-00 CIAE-00 COME-00 DLOS-09 DOTE-00
EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00 H-01
INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01
OES-07 OMB-01 PA-01 PM-05 SP-02 SS-15 ICA-11
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R 250831Z APR 78
FM AMEMBASSY SEOUL
TO SECSTATE WASHDC 693
INFO USMISSION GENEVA
AMEMBASSY TOKYO
JCS WASHDC
USMISSION USUN
CINCPAC

C O N F I D E N T I A L SEOUL 3430

E.O. 11652: GDS
TAGS: PLOR, KS
SUBJECT: ROK VIEWS ON LAW OF THE SEA CONFERENCE INCLUDING STRAITS
ARTICLE

REF: A) JCS 221650Z APR 78; B) SEOUL 842 (010220Z FEB 79)

1. FOLLOWING RECEIPT REFTEL A, EMBASSY TOOK THE
INITIATIVE AND EMBASSY OFFICIAL DISCUSSED LAW OF SEA DEVELOPMENTS
WITH DIRECTOR PAE OF FOREIGN MINISTRY INTERNATIONAL LEGAL AFFAIRS
DIVISION APRIL 24. PAE, WHO HAD JUST RETURNED FROM GENEVA, SUMM-
ARIZED DEVELOPMENTS TO DATE AS THEY APPEARED TO HIM, NOTING LENGTH OF
TIME SPENT ON PROCEDURAL ISSUES AND VERY LIMITED PERIOD
REMAINING FOR TREATMENT OF MAJOR SUBSTANTIVE ISSUES. PAE
DOUBTED THAT CONFERENCE WOULD BE ABLE TO PRODUCE NEW SINGLE
NEGOTIATING TEXT IN PRESENT SESSION, AND GIVEN UN SCHEDULE
FOR REMAINDER OF YEAR HE THOUGHT THAT BEST PROSPECT WAS FOR A
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FURTHER INTERSESSIONAL MEETING THAT MIGHT BE ABLE TO
REACH AGREEMENT ON SOME OF THE "CORE ISSUES".

2. REGARDING RENEGOTIATION OF STRAITS ARTICLES, PAE
NOTED THAT ARTICLE HAD BEEN DISCUSSED IN SOME DETAIL
AT CARACAS CONFERENCE IN 1974 BUT THAT SUBSEQUENT
CONSIDERATION HAD BEEN IN NEGOTIATING GROUPS IN WHICH

ROK DID NOT PARTICIPATE. THE PRESENT TEXT, HE SAID, IS BASED LARGELY ON ORIGINAL BRITISH PROPOSALS, WITH MINOR ALTERATIONS PROPOSED BY OTHERS. HE NOTED THAT MANY COUNTRIES FELT IN PARTICULAR THAT SECURITY INTERESTS REQUIRED ADVANCE NOTICE FOR WARSHIPS TO PASS THROUGH STRAITS IN TERRITORIAL WATERS, AND THAT THE U.S. HAD UPHELD THIS VIEW IN 1958 LOS NEGOTIATIONS. HE ALSO NOTED SOME NATIONS HAD EXPRESSED INTEREST IN REQUIRING SUBMARINES TO SURFACE DURING TRANSIT.

3. PAE ACKNOWLEDGED U.S. CONCERN THAT RESTRICTIVE STRAITS REGIME MIGHT INHIBIT U.S. ABILITY TO SUPPORT ROK. HE ALSO ACKNOWLEDGED A CONFLICT IN ROK BETWEEN INTERESTS AS A STRAITS-OWNING NATION AND AS A MARITIME AND TRADING NATION, AND SAID IT WAS CLEAR THAT THE ISSUES WOULD HAVE TO BE COMPROMISED SOMEHOW. HE STRESSED THAT UNDER CONTEMPLATED ROK DECREES (AND CURRENT JAPANESE LAW) THE KOREA STRAIT WOULD NOT FALL UNDER THE LOS STRAITS REGIME, SINCE THE AREA WILL BE RETAINED AS HIGH SEAS OUTSIDE THE THREE-MILE LIMIT IN THAT LOCALE. THUS THE PROPOSED ARTICLES WOULD AFFECT ONLY THE CHEJU STRAIT (IN THE VICINITY OF KOREA).

4. COMMENT: WITHOUT SAYING SO PAE SEEMED TO REGARD AS RATHER THEORETICAL THE POSSIBILITY THAT AN ALTERATION IN THE INTERNATIONAL STRAITS PROVISIONS WOULD INHIBIT U.S. ABILITY TO PROVIDE CONFIDENTIAL

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MILITARY SUPPORT FOR THE ROK. GIVEN HIS PESSIMISTIC PROJECTION FOR THE LOS CONFERENCE, MOREOVER, U.S. PROTESTS REGARDING DELAYS IN AN AGREEMENT AS RESULT OF RENEGOTIATING THE STRAITS ARTICLES CANNOT BE EXPECTED TO HAVE MUCH IMPACT. THE ROK POSITION ON THE STRAITS ISSUE APPEARS TO BE DIRECTLY RELATED TO U.S. CRITICISMS OF THE ROK'S PROPOSED TERRITORIAL SEA REGIME (REF B AND PREVIOUS). THE KOREANS HAVE SEEMED PARTICULARLY CONCERNED OVER THE U.S. THREAT TO TAKE PUBLIC ISSUE WITH THEIR PROPOSED TERRITORIAL WATERS REGIME AND HAVE TWICE ASKED WHETHER THE U.S. TOOK SIMILAR ACTION WHEN INDIA TOOK A COMPARABLE STEP (REF B). IN THE PRESENT SITUATION THE ROK GOAL WOULD PROBABLY BE A U.S. UNDERTAKING, EXPLICIT OR TACIT, EITHER TO ACCEPT THEIR ARGUMENT THAT THE CHEJU STRAIT NEED NOT BE REGARDED AS AN INTERNATIONAL ONE BECAUSE OF THE AVAILABILITY OF AN ALTERNATE ROUTE, OR AT LEAST TO REFRAIN FROM ANY PUBLIC DISPUTE WITH THEIR ACTIONS.

5. CINCUNC DISCUSSED MATTER WITH MINISTER OF NATIONAL DEFENSE ON APRIL 24 AS DIRECTED REF A. WHILE MND MIN DID NOT APPEAR BRIEFED ON MATTER, HE SAID HE AGREED WITH U.S. POSITION AND WOULD TAKE MATTER UP WITH MOFA.

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